

AMENDED IN ASSEMBLY MAY 2, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1505

Introduced by Assembly Member La Suer
(Coauthor: Assembly Member Cohn)

February 22, 2005

An act to amend Sections 2085.5, ~~3000, and 6231~~ and 3000 of the Penal Code, relating to restitution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1505, as amended, La Suer. Victim restitution.

Existing law prohibits deductions from being made from an inmate's wages and trust account for a restitution order if the victim has not filed an application with the Victim Compensation Program.

This bill would not require a victim to file an application with the Victim Compensation Program in order to receive money from the program.

Under existing law, the Director of Corrections may collect money for a restitution fine or order from a parolee.

This bill would require the director to do so.

Existing law authorizes the Department of Corrections of the Board of Prison Terms to impose as a condition of parole that a prisoner make payments on any outstanding restitution fines or orders.

This bill would require that condition of parole.

~~Under existing law, one-third of the wages earned by a prisoner housed in a restitution center is used to pay restitution, as specified. Once all required restitution is paid, that one-third is required to be paid to the local jurisdiction for crime prevention.~~

~~This bill would instead require that one-third of wages to be paid to local victim witness assistance centers, once all restitution is paid.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2085.5 of the Penal Code is amended to
2 read:
3 2085.5. (a) In any case in which a prisoner owes a restitution
4 fine imposed pursuant to subdivision (a) of Section 13967 of the
5 Government Code, as operative prior to September 28, 1994,
6 subdivision (b) of Section 730.6 of the Welfare and Institutions
7 Code, or subdivision (b) of Section 1202.4, the Director of
8 Corrections shall deduct a minimum of 20 percent or the balance
9 owing on the fine amount, whichever is less, up to a maximum of
10 50 percent from the wages and trust account deposits of a
11 prisoner, unless prohibited by federal law, and shall transfer that
12 amount to the California Victim Compensation and Government
13 Claims Board for deposit in the Restitution Fund in the State
14 Treasury. Any amount so deducted shall be credited against the
15 amount owing on the fine. The sentencing court shall be provided
16 a record of the payments.
17 (b) In any case in which a prisoner owes a restitution order
18 imposed pursuant to subdivision (c) of Section 13967 of the
19 Government Code, as operative prior to September 28, 1994,
20 subdivision (h) of Section 730.6 of the Welfare and Institutions
21 Code, or subdivision (f) of Section 1202.4, the Director of
22 Corrections shall deduct a minimum of 20 percent or the balance
23 owing on the order amount, whichever is less, up to a maximum
24 of 50 percent from the wages and trust account deposits of a
25 prisoner, unless prohibited by federal law. The director shall
26 transfer that amount to the California Victim Compensation and
27 Government Claims Board for direct payment to the victim, or
28 payment shall be made to the Restitution Fund to the extent that
29 the victim has received assistance pursuant to that program. The
30 sentencing court shall be provided a record of the payments made
31 to victims and of the payments deposited to the Restitution Fund
32 pursuant to this subdivision.
33 (c) The director shall deduct and retain from the wages and
34 trust account deposits of a prisoner, unless prohibited by federal
35 law, an administrative fee that totals 10 percent of any amount

1 transferred to the California Victim Compensation and
2 Government Claims Board pursuant to subdivision (a) or (b). The
3 director shall deduct and retain from any prisoner settlement or
4 trial award, an administrative fee that totals 5 percent of any
5 amount paid from the settlement or award to satisfy an
6 outstanding restitution order or fine pursuant to subdivision (j),
7 unless prohibited by federal law. The director shall deposit the
8 administrative fee moneys in a special deposit account for
9 reimbursing administrative and support costs of the restitution
10 program of the Department of Corrections. The director, at his or
11 her discretion, may retain any excess funds in the special deposit
12 account for future reimbursement of the department's
13 administrative and support costs for the restitution program or
14 may transfer all or part of the excess funds for deposit in the
15 Restitution Fund.

16 (d) In any case in which a parolee owes a restitution fine
17 imposed pursuant to subdivision (a) of Section 13967 of the
18 Government Code, as operative prior to September 28, 1994,
19 subdivision (b) of Section 730.6 of the Welfare and Institutions
20 Code, or subdivision (b) of Section 1202.4, the Director of
21 Corrections shall collect from the parolee any moneys owing on
22 the restitution fine amount, unless prohibited by federal law. The
23 director shall transfer that amount to the California Victim
24 Compensation and Government Claims Board for deposit in the
25 Restitution Fund in the State Treasury. Any amount so deducted
26 shall be credited against the amount owing on the fine. The
27 sentencing court shall be provided a record of the payments.

28 (e) In any case in which a parolee owes a direct order of
29 restitution, imposed pursuant to subdivision (c) of Section 13967
30 of the Government Code, as operative prior to September 28,
31 1994, subdivision (h) of Section 730.6 of the Welfare and
32 Institutions Code, or paragraph (3) of subdivision (a) of Section
33 1202.4, the Director of Corrections shall collect from the parolee
34 any moneys owing, unless prohibited by federal law. The director
35 shall transfer that amount to the California Victim Compensation
36 and Government Claims Board for direct payment to the victim,
37 or payment shall be made to the Restitution Fund to the extent
38 that the victim has received assistance pursuant to that program.
39 The sentencing court shall be provided a record of the payments
40 made by the offender pursuant to this subdivision.

1 (f) The director may deduct and retain from any moneys
2 collected from parolees an administrative fee that totals 10
3 percent of any amount transferred to the California Victim
4 Compensation and Government Claims Board pursuant to
5 subdivision (d) or (e), unless prohibited by federal law. The
6 director shall deduct and retain from any settlement or trial award
7 of a parolee an administrative fee that totals 5 percent of any
8 amount paid from the settlement or award to satisfy an
9 outstanding restitution order or fine pursuant to subdivision (j),
10 unless prohibited by federal law. The director shall deposit the
11 administrative fee moneys in a special deposit account for
12 reimbursing administrative and support costs of the restitution
13 program of the Department of Corrections. The director, at his or
14 her discretion, may retain any excess funds in the special deposit
15 account for future reimbursement of the department's
16 administrative and support costs for the restitution program or
17 may transfer all or part of the excess funds for deposit in the
18 Restitution Fund.

19 (g) When a prisoner or parolee has both a restitution fine and a
20 restitution order from the sentencing court, the Department of
21 Corrections shall collect the restitution order first pursuant to
22 subdivision (b) or (e).

23 (h) If an inmate is housed at an institution that requires food to
24 be purchased from the institution canteen for unsupervised
25 overnight visits, and if the money for the purchase of this food is
26 received from funds other than the inmate's wages, that money
27 shall be exempt from restitution deductions. This exemption shall
28 apply to the actual amount spent on food for the visit up to a
29 maximum of fifty dollars (\$50) for visits that include the inmate
30 and one visitor, seventy dollars (\$70) for visits that include the
31 inmate and two or three visitors, and eighty dollars (\$80) for
32 visits that include the inmate and four or more visitors.

33 (i) Any compensatory or punitive damages awarded by trial or
34 settlement to any inmate or parolee in connection with a civil
35 action brought against any federal, state, or local jail, prison, or
36 correctional facility, or any official or agent thereof, shall be paid
37 directly, after payment of reasonable attorney's fees and
38 litigation costs approved by the court, to satisfy any outstanding
39 restitution orders or restitution fines against that person. The
40 balance of any award shall be forwarded to the payee after full

1 payment of all outstanding restitution orders and restitution fines,
2 subject to subdivisions (c) and (f). The Department of
3 Corrections shall make all reasonable efforts to notify the victims
4 of the crime for which that person was convicted concerning the
5 pending payment of any compensatory or punitive damages.

6 (j) (1) Amounts transferred to the California Victim
7 Compensation and Government Claims Board for payment of
8 direct orders of restitution shall be paid to the victim within 60
9 days from the date the restitution revenues are received by the
10 California Victim Compensation and Government Claims Board.
11 If the restitution payment to a victim is less than fifty dollars
12 (\$50), then payment need not be forwarded to that victim until
13 the payment reaches fifty dollars (\$50) or until 180 days from the
14 date the first payment is received, whichever occurs sooner.

15 (2) In any case in which a victim cannot be located, the
16 restitution revenues received by the California Victim
17 Compensation and Government Claims Board on behalf of the
18 victim shall be held in trust in the Restitution Fund until the end
19 of the state fiscal year subsequent to the state fiscal year in which
20 the funds were deposited or until the time that the victim has
21 provided current address information, whichever occurs sooner.
22 Amounts remaining in trust at the end of the specified period of
23 time shall revert to the Restitution Fund.

24 (3) Any victim failing to provide a current address within the
25 period of time specified in paragraph (2) may provide
26 documentation to the Department of Corrections, which in turn
27 shall verify that moneys were in fact collected on behalf of the
28 victim. Upon receipt of that verified information from the
29 Department of Corrections, the California Victim Compensation
30 and Government Claims Board shall transmit the restitution
31 revenues to the victim in accordance with the provisions of
32 subdivision (b) or (e).

33 SEC. 2. Section 3000 of the Penal Code is amended to read:

34 3000. (a) (1) The Legislature finds and declares that the
35 period immediately following incarceration is critical to
36 successful reintegration of the offender into society and to
37 positive citizenship. It is in the interest of public safety for the
38 state to provide for the supervision~~—of~~ and surveillance of
39 parolees, including the judicious use of revocation actions, and to
40 provide educational, vocational, family and personal counseling

1 necessary to assist parolees in the transition between
2 imprisonment and discharge. A sentence pursuant to Section
3 1168 or 1170 shall include a period of parole, unless waived, as
4 provided in this section.

5 (2) The Legislature finds and declares that it is not the intent
6 of this section to diminish resources allocated to the Department
7 of Corrections for parole functions for which the department is
8 responsible. It is also not the intent of this section to diminish the
9 resources allocated to the Board of Prison Terms to execute its
10 duties with respect to parole functions for which the board is
11 responsible.

12 (3) The Legislature finds and declares that diligent effort must
13 be made to ensure that parolees are held accountable for their
14 criminal behavior, including, but not limited to, the satisfaction
15 of restitution fines and orders.

16 (4) Any finding made pursuant to Article 4 (commencing with
17 Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare
18 and Institutions Code, that a person is a sexually violent predator
19 shall not toll, discharge, or otherwise affect that person's period
20 of parole.

21 (b) Notwithstanding any provision to the contrary in Article 3
22 (commencing with Section 3040) of this chapter, the following
23 shall apply:

24 (1) At the expiration of a term of imprisonment of one year
25 and one day, or a term of imprisonment imposed pursuant to
26 Section 1170 or at the expiration of a term reduced pursuant to
27 Section 2931 or 2933, if applicable, the inmate shall be released
28 on parole for a period not exceeding three years, except that any
29 inmate sentenced for an offense specified in paragraph (3), (4),
30 (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5
31 shall be released on parole for a period not exceeding five years,
32 unless in either case the parole authority for good cause waives
33 parole and discharges the inmate from the custody of the
34 department.

35 (2) In the case of any inmate sentenced under Section 1168,
36 the period of parole shall not exceed five years in the case of an
37 inmate imprisoned for any offense other than first or second
38 degree murder for which the inmate has received a life sentence,
39 and shall not exceed three years in the case of any other inmate,
40 unless in either case the parole authority for good cause waives

1 parole and discharges the inmate from custody of the department.
2 This subdivision shall also be applicable to inmates who
3 committed crimes prior to July 1, 1977, to the extent specified in
4 Section 1170.2.

5 (3) Notwithstanding paragraphs (1) and (2), in the case of any
6 offense for which the inmate has received a life sentence
7 pursuant to Section 667.61 or 667.71, the period of parole shall
8 be five years. Upon the request of the Department of Corrections,
9 and on the grounds that the paroled inmate may pose a
10 substantial danger to public safety, the Board of Prison Terms
11 shall conduct a hearing to determine if the parolee shall be
12 subject to a single additional five-year period of parole. The
13 board shall conduct the hearing pursuant to the procedures and
14 standards governing parole revocation. The request for parole
15 extension shall be made no less than 180 days prior to the
16 expiration of the initial five-year period of parole.

17 (4) The parole authority shall consider the request of any
18 inmate regarding the length of his or her parole and the
19 conditions thereof.

20 (5) Upon successful completion of parole, or at the end of the
21 maximum statutory period of parole specified for the inmate
22 under paragraph (1), (2), or (3), as the case may be, whichever is
23 earlier, the inmate shall be discharged from custody. The date of
24 the maximum statutory period of parole under this subdivision
25 and paragraphs (1), (2), and (3) shall be computed from the date
26 of initial parole or from the date of extension of parole pursuant
27 to paragraph (3) and shall be a period chronologically
28 determined. Time during which parole is suspended because the
29 prisoner has absconded or has been returned to custody as a
30 parole violator shall not be credited toward any period of parole
31 unless the prisoner is found not guilty of the parole violation.
32 However, in no case, except as provided in Section 3064, may a
33 prisoner subject to three years on parole be retained under parole
34 supervision or in custody for a period longer than four years from
35 the date of his or her initial parole, and, except as provided in
36 Section 3064, in no case may a prisoner subject to five years on
37 parole be retained under parole supervision or in custody for a
38 period longer than seven years from the date of his or her initial
39 parole or from the date of extension of parole pursuant to
40 paragraph (3).

(6) The Department of Corrections shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections or the Board of Prison Terms shall impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Prison Terms, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to subparagraph (C) of paragraph (1) of subdivision (a) of Section 290 who are on parole to engage them in treatment.

~~SEC. 3. Section 6231 of the Penal Code is amended to read:~~

~~6231. (a) Wages earned by an offender, less any deductions for taxes, shall be paid directly to the Department of Corrections.~~

~~(b) Wage moneys received by the department shall be used to reimburse the offender for costs directly associated with continued employment, including transportation, special tools or clothing, meals away from the center, union dues, and other employee-mandated costs. The remaining wages shall be distributed as follows:~~

~~(1) One-third shall be transferred to the Department of Corrections to pay the costs of operating and maintaining the restitution center.~~

~~(2) One-third shall be used to pay restitution pursuant to the agreement or court order. After the restitution is paid these moneys shall be paid to the jurisdiction which prosecuted the~~

1 offender to defray the court costs and attorney fees incurred in
2 the offender's prosecution. If all restitution, court costs and
3 attorney fees are paid, these moneys shall be paid to the local
4 victim witness assistance center, established pursuant to Article 2
5 (commencing with Section 13835) of Chapter 4 of Title 6 of Part
6 4.

7 (3) One-third shall be placed in a savings account for the
8 offender, to provide support for the offender's immediate family;
9 to purchase items necessary for the offender's employment or to
10 give to the offender to purchase personal accessories. Any
11 moneys in the savings account or not expended pursuant to this
12 paragraph at the time the offender is released from the restitution
13 center shall be paid to the offender.